

### **REMARKS**

Claims 1-14 are currently pending in this application. Claims 1, 3, and 14 are independent. In light of the remarks included herein, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections.

In the outstanding Official Action, the Examiner rejected claim 14 under 35 U.S.C. §102(b) as being anticipated by *Murrah et al.* (USP 5,804,807) and rejected claims 1-13 under 35 U.S.C. §103(a) as being unpatentable over *Murrah et al.* in view of *Roach et al.* (USP 6,310,997) and further in view of *Garber et al.* (USP 6,232,870). Applicants respectfully traverse these rejections.

### **Examiner Interview**

Applicants wish to thank the Examiner for the interview conducted on August 7, 2007. During the Interview, the parties discussed the outstanding rejections. The parties agreed that the cited art failed to teach or suggest all of the claim elements of claim 1 and agreed that the outstanding rejection would be withdrawn. The Examiner maintained his position with regard to his rejection of claims 3 and 14.

The parties further discussed the newly amended “comparing” step as recited in claim 1. Support for this claim element is found, for example, on page 24, starting on line 8, of the specification.

Based on the agreement reached during the Interview, Applicants respectfully request withdrawal of the outstanding rejection of claim 1, together with its respective dependent claims.

### **Claim Rejections – 35 U.S.C. §102**

Applicants respectfully submit that *Murrah et al.* fails to teach or suggest storage for accumulating and storing commodity information that has been read by the tag reader and wireless communication device for transmitting commodity information to an information-

processing apparatus via radio waves at the same time that the commodity information is stored in the storage, as recited in claim 14.

*Murrah et al.* discloses one embodiment where the roving attendant creates a customer purchase record inside the portable terminal's memory. Each item in the customer's shopping container is added to the customer's purchase record by the attendant scanning the individual item's bar code (col. 4, lines 21-28).

In an **alternative** embodiment, *Murrah et al.* discloses that the terminal could function simply as a dumb terminal and all data is stored and processed at the central processing system. The portable scanning terminal would transmit customer item selection after every customer purchase record entry, rather than waiting until all purchased items have been entered into the portable scanning terminal's memory (col. 7, lines 40-45).

In order for the Examiner to establish *prima facie* anticipation, the Examiner must apply a reference that teaches or suggests all of the claim elements. However, there is no disclosure that teaches or suggests the portable terminal as claimed, including the storage and wireless communication device in the same device. As such, Applicants respectfully submit that the Examiner's rejection of the claim under 35 U.S.C. §102 is improper and should be withdrawn.

#### **Claim Rejections – *Murrah et al./Roach et al./Garber et al.***

The invention of claim 3 is directed to a merchandise retail management system comprising, *inter alia*, an information-processing apparatus for receiving the relay from the portable terminal, indicating what commodity to have prepared in accordance to what the customer has indicated the intent to purchase and comparing the commodity information which has already been related to information processing apparatus, with commodity information which is sent from the portable terminal to the POS apparatus and is then entered into the information processing apparatus.

In support of the Examiner's rejection of this claim, the Examiner relies on col. 5, lines 62-67 and col. 6, lines 18-32 to teach these claim elements. However, at col. 5, *Murrah et al.* merely describes that after the pre-register transaction is complete, the record is transmitted to the central processing system. This teaching is insufficient to teach or suggest "comparing the commodity information which has already been related to information processing apparatus, with commodity information which is sent from the portable terminal to the POS apparatus," as required by the claim.

Further, at col. 6, *Murrah et al.* discloses that the scanner may be used to scan additional products selected by the customer. However, this teaching is insufficient to teach or suggest "comparing the commodity information which has already been related to information processing apparatus, with commodity information which is sent from the portable terminal to the POS apparatus," as required by the claim.

None of the other cited references teach or suggest this claim element. As such, the Examiner has failed to establish *prima facie* obviousness by failing to provide references that teach or suggest all of the claim elements. As such, it is respectfully requested that the outstanding rejection be withdrawn.

It is respectfully submitted that claims 4-13 are allowable for the reasons set forth above with regard to claim 3 at least based upon their dependency on claim 3.

### **Conclusion**

In view of the above remarks, it is believed that claims are allowable.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisin Reg. No. 52,327 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Application No. 09/995,652  
Amendment dated August 10, 2007  
Reply to Office Action of May 11, 2007

Docket No.: 1247-0464P

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: August 10, 2007

Respectfully submitted,

By

  
Charles Gorenstein

Registration No.: 29,271

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicants